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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,554	11/27/2001	Kenneth S. Bloom	17724 USA	8757

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7590 09/23/2004

EXAMINER
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HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

36)

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/994,554		BLOOM ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Robin A. Hylton		3727	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-24, 34-46, 59 and 60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7, 9, 13-19, 34-41, 43, 59 and 60 is/are rejected.
- 7) ☒ Claim(s) 8, 10-12, 20-24, 42 and 44-46 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/21/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

#### DETAILED ACTION

1. The indicated allowability of claims 2, 16, and 38 is withdrawn in view of the newly discovered reference(s) to Towns et al. (US 4,674,642). Rejections based on the newly cited reference follow.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the axially extending bead of the disk providing a space between the disk base and the liner as set forth in claim 60 must be shown or the feature canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 112*

3. Claims 60 and 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

It is unclear how the axially extending bead of the base wall spaces the base wall from the liner as set forth in claim 60.

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Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3,9,13,15,16,17,38,39,43,59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Towns in view of Eisen (US 2,151,019) and Riffer (US 6,371,318).

Towns teaches a plastic closure **10** that comprises a plastic closure shell **12** including a base wall **14**, and a peripheral skirt **16** with an internal thread **18** for securing the closure to a container finish and an internal bead **30** adjacent to but spaced from said base wall, a plastic disk **22** loosely retained by said bead parallel to but separate from said base wall, said disk including a flat base with a peripheral portion captured between said bead and said base wall and an annular ring **26** extending axially from said base adjacent to but spaced from said periphery.

Towns does not teach a resilient liner molded onto said disk covering at least a central portion of said base and said ring, said ring urging said liner into sealing engagement with a radially inner edge of a container finish when said closure is secured to the container finish.

Eisen teaches is it known to provide a closure disk **14** with a barrier liner **15-19**, wherein the liner covers at least a central portion of the disk.

Riffer teaches it is known to mold in-situ multiple layers of barrier structure to form a liner of a closure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a barrier liner to the closure disk of Towns as taught by Eisen and to

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mold the barrier liner thereto as taught by Riffer. Doing so provides a securely attached barrier layer of material known for protecting the contents of the associated container from degradation.

6. Claims 4-7, 18, 19, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 3, 17, and 39 above, and further in view of Chang (US 4,640,428).

Towns as modified teaches the claimed closure except for the claimed shape of the ring.

Chang teaches it is known to provide a closure with various shaped depending rings including a rounded convex portion that extends from an axial edge of said ring and a rounded concave portion that extends from said convex portion to a flat axially facing surface of said base as seen in figure 3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to change the shape of the ring of Towns to any shape including that taught by Chang. Doing so provides more positive sealing arrangements between closures and containers having differing open-end configurations.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applied art as applied to claim 13 above, and further in view of Taha (US 6,491,175).

Towns as modified teaches the claimed closure except for a tamper indicating band.

Taha teaches it is known to provide a closure having a flared bottom end with a tamper indicating band.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a tamper indicating band to the closure of Towns. Doing so ensures the integrity of the contents in the associated bottle prior to first use.

***Allowable Subject Matter***

8. Claims 8, 10-12, 20-24, 42, 44-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 34-37 and 60 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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***Response to Arguments***

10. Applicant's arguments filed May 24, 2004 have been fully considered. In view thereof, the previous rejection under 35 USC 112, 2<sup>nd</sup> paragraph has been withdrawn.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a part-time schedule and can normally be reached on Monday - Friday from 9:00 a.m. to 1:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,


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Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
September 18, 2004

  
Robin A. Hylton  
Primary Examiner  
GAU 3727